

### **REMARKS**

Reconsideration and allowance of the above-referenced application in view of the above amendments and following arguments is respectfully requested.

Claims 28-39 have been deleted. New claims 40-45 have been added. No new matter has been added as a result of the addition of these claims.

#### **Rejection of Claims 28-39 under 35 U.S.C. Section 112, Second Paragraph**

Claims 28-39 are rejected under 35 U.S.C. Section 112, second paragraph, as being indefinite. Specifically, the Examiner stated that claims 28, 31, 34 and 37 recited “degenerate coding sequences thereof” after the recitation of SEQ ID NO representing polynucleotide sequences.

Claims 28-39 have been deleted and replaced with new claims 40-45. Applicants have taken this rejection into consideration in drafting new claims 40-45. New claim 40 specifically recites the SEQ ID NO representing the polynucleotide sequences after the phrase “degenerate coding sequences thereof”.

In view of the cancellation of claims 28-39, Applicants submit that this rejection is now moot and should be withdrawn.

#### **Rejection of Claims 28-39 Under U.S.C. Section 112, First Paragraph**

Claims 28-39 are rejected under 35 U.S.C. Section 112, first paragraph, as containing subject matter that is not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner states that the specification teaches that SEQ ID NOS: 1, 2, 23, 24 and 25 EST sequences and represent partial cDNAs. The Examiner goes on to state that the specification does not disclose whether or not a given EST sequence crosses an intron/exon junction and thus, the polynucleotides that comprises the EST sequences can

be genomic sequences having introns and regulatory regions which have not been described, in addition to cDNA sequences that have not been described.

Claims 28-39 have been deleted. Applicants have taken this rejection into consideration in drafting new claims 40-45. Thereupon, in view of the cancellation of claims 28-39, Applicants submit that this rejection is now moot and should be withdrawn.

Rejection of Claims 28-39 Under U.S.C. Section 102(e) as being anticipated by Lal et al. (U.S. Patent No. 5,856,139)

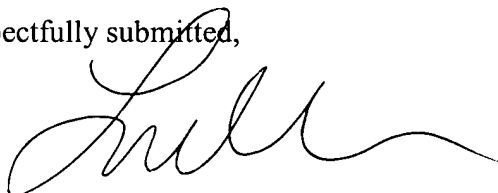
Claims 28-39 are rejected under 35 U.S.C. Section 102(e) as being anticipated by Lal et al.

Claims 28-39 have been deleted. Claims 40-45 have been added. These claims do not contain any reference to SEQ ID NO:2. Additionally, these new claims use the transitional word "consisting of" in connection with SEQ ID NOS: 23-25. Lal et al. do not disclose SEQ ID NOS: 23-25. Therefore, in view of the deletion of claims 28-39, this rejection is now moot and should be withdrawn.

Applicants submit that this application is now in condition for allowance.

If any additional fees are incurred as a result of the filing of this paper, authorization is given to charge deposit account number 23-0785.

Respectfully submitted,

By: 

Lisa V. Mueller (Reg. No. 38,978)  
Attorney for Applicant

WOOD, PHILLIPS, KATZ, CLARK & MORTIMER  
500 MADISON STREET, SUITE 3800  
CHICAGO, IL 60661  
(312) 876-1800